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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

13 GABRIELLE S. OLAYO,

14 Plaintiff,

15 vs.

16 ANDREW SAUL,
17 Commissioner of Social Security,

18 Defendant.

)
) Case No.: 2:21-cv-00205-EJY

)
) **UNOPPOSED MOTION FOR EXTENSION OF**
) **TIME TO FILE CERTIFIED**
) **ADMINISTRATIVE RECORD AND ANSWER;**
) **DECLARATION OF JEBBY RASPUTNIS**

) **(SECOND REQUEST)**
)

1 Defendant, Andrew Saul, Commissioner of Social Security (the “Commissioner”), by and through
2 his undersigned attorneys, hereby moves for a 60-day extension of time to file the Certified
3 Administrative Record (CAR) and answer to Plaintiff’s Complaint. The CAR and answer to Plaintiff’s
4 Complaint are due to be filed by June 29, 2021. This is the Commissioner’s second request for an
5 extension of time.

6 Defendant makes this request in good faith and for good cause, because the CAR, which must be
7 filed with the Answer and is necessary to adjudicate the case, is not yet available. The public health
8 emergency pandemic caused by COVID-19 has significantly impacted operations in the Social Security
9 Administration’s Office of Appellate Operations (OAO) in Falls Church, Virginia, which is responsible
10 for producing the CAR that must be filed with the Answer, per 42 U.S.C. §§ 405(g) and (h). As detailed
11 in the attached declaration from Jebby Rasputnis, Executive Director of the OAO, beginning mid-March
12 2020, OAO restricted physical access to the Falls Church building, which impacted the production of
13 CARs because physical access was previously required to produce CARs. OAO has since developed and
14 employed a new business process to produce CARs. Much of the difficulty in producing CARs stemmed
15 from the old process of transmitting hearing recordings to vendors for transcription, how the vendors
16 transcribed the recordings, and how the vendors provided the completed transcripts to OAO. OAO
17 changed this process by reworking how the audio files are submitted, seeking additional vendor capacity,
18 and increasing in-house transcription capacity. With these changes, OAO is now able to produce more
19 than 700 transcripts a week, a significant increase over the pre-COVID-19 average of 300–400 hearing
20 transcripts a week.

21 Despite these improvements, OAO still faces a significant backlog of cases due to the combined
22 effects of pandemic-related disruption and a marked increase in district court filings (up almost 800 cases
23 per month, a 54% increase). Overall, the timeframe for delivering a CAR in an individual case has
24 improved, and the current average processing time is 139 days. Because of this, OAO is making progress
25 in its backlog of cases. At the end of January 2021, OAO had 11,109 pending cases. As of April 26,
26 2021, OAO had 8,853 pending cases, representing a decrease in our backlog of more than 2,250 cases
over the last nearly three months. OAO continues to work on increasing productivity by collaborating

1 with our vendors and searching out and utilizing technological enhancements. Defendant asks this Court
2 for its continued patience as OAO works to increase its efficiency and production of CARs, reduce the
3 current backlog, and address rising court case filings. Counsel for Defendant further states that the Office
4 of General Counsel (OGC) is monitoring receipt of transcripts on a daily basis and is committed to filing
5 Answers as soon as practicable upon receipt and review of the administrative records.

6 Given the volume of pending cases, Defendant requests an extension in which to respond to the
7 Complaint until August 30, 2021. If Defendant is unable to produce the certified administrative record
8 necessary to file an Answer in accordance with this Order, Defendant shall request an additional
9 extension prior to the due date.

10 On June 18, 2021, the undersigned conferred with Plaintiff's counsel, who has no opposition to the
11 requested extension.

12 It is therefore respectfully requested that Defendant be granted an extension of time to file the CAR
13 and answer to Plaintiff's Complaint, through and including August 30, 2021.

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15 Dated: June 21, 2021

16 CHRISTOPHER CHIOU
17 Acting United States Attorney

18 /s/ Allison J. Cheung
19 ALLISON J. CHEUNG
20 Special Assistant United States Attorney

21 **IT IS SO ORDERED; provided, however, no further extensions of time will be granted.**

22 
23 UNITED STATES MAGISTRATE JUDGE

24 DATED: June 21, 2021
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